

Right to Water and Sanitation

SUMMARY OF KEY ISSUES IN PREVIOUS UPR CYCLES

During India's II UPR cycle in 2012, there were 4 recommendations made to India related to the right to Water and Sanitation. India accepted 3 recommendations (Recommendation No- 76, 139, 148) but did not accept Recommendation No- 138 which asked India to ensure that every household enjoys the right to safe drinking water and sanitation.

India has lagged in achieving the Millennium Development Goal 7 to improve access to adequate sanitation to eliminate the massive open defecation problem. However, the Government of India has shown its commitments in parts to achieve Goal 6 of the Sustainable Development Goals which looks at water and sanitation more holistically taking into account water-use efficiency, water related ecosystems, water resource management apart from adequate and equitable access to safe water, sanitation and hygiene. India through its flagship programme, Swachh Bharat Abhiyan (Clean India Campaign) launched in 2014, is dedicated to make the country open defecation free and to paying special attention to the needs of women and girls and those in vulnerable situations. It has entrusted NITI Aayog as the nodal agency to look into the implementation of SDGs in India.

Government of India is also a signatory to the declaration of South Asian Conference on Sanitation (SACOSAN) V & VI held in 2013 in Nepal and 2015 in Bangladesh respectively.

NATIONAL LEGAL FRAMEWORK

In India, right to water is not enshrined as a fundamental right in the Constitution but has been recognized under Article 21 of the Constitution, the right to life, thus establishing that all human beings are entitled to equal and non-discriminatory supply of a sufficient amount of water. However, key water related policies and laws do not mention water as 'a human right' but as 'a basic need'.

Draft National Water Policy, 2012

The draft policy seeks to address issues such as the scarcity of water, inequities in its distribution and the lack of a unified perspective in planning, management and use of water resources. There is a mention of the Water framework law that that will enable the establishment of river basin authorities with appropriate powers to plan, manage and regulate water resources at the river basin level. While the draft policy clearly mentions that water needs to be managed as a community resource held by the state under public trust doctrine to ensure equitable and sustainable development for all, on the contrary it underlines the need to treat water as an "economic good". The policy is also flexible towards allocating water for industrial use even at the cost of agriculture.

Swachh Bharat Mission, 2014

The Swachh Bharat Mission (SBM), a signature programme of the present regime was launched in October 2014 with its core intent to achieve universal sanitation coverage and open defecation free by 2019. The mission for rural areas is being coordinated by the Ministry of Drinking Water and Sanitation, and the same for urban areas are coordinated by Ministry of Urban Development.

The ground reality reveals that the SBM has largely focused on constructing toilets in large scale and has neglected the interlinkages between access to water, its availability, sustainability, security and management, waste management, maintenance, social and gender inequalities. Water availability has been largely ignored indicating the inherent flaws of the mission.

In 2015, the Swachhta Guidelines and Kayakalp awards for public health care facilities were announced under SBM, communicating the Government's interest in improving WASH to improve health, especially in institutional settings.

National Rural Drinking Water Programme

In 2013, new guidelines were framed under the National Rural Drinking Water Programme for improving its implementation. India has met the

target for halving the number of households without drinking water supply in rural areas.

However, the Budget 2016-17 yet again neglected its rural drinking water component with the allocation of Rs. 5000 crore for the National Rural Drinking Water Programme being only a marginal improvement over the previous year's allocation of Rs 4373 crores.

There is a plan called "Har Ghar Nal" by Government of India, to provide piped drinking water for all households. However, the aims are such ambitious that it aims to have 70 percent coverage by the end of 2017, wherein the current coverage is limited to 17 percent as per the government data. Moreover, the actual mandate for provision of drinking water lies with the State governments in the Indian federal system, wherein the centre is expected to support through finance and other resources.

Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013

This law prohibits the employment of persons as manual scavengers, the manual cleaning of sewers and septic tanks without protective equipment, and the construction of insanitary latrines. Despite having a legislation to eliminate manual scavenging and to rehabilitate them with dignity, India has fallen short in its implementation. There is a lack of emphasis on faecal sludge and seepage management in the city sanitation plans. There is also an urgent need of vision around the rural sanitation program wherein toilets are built in large number without any emptying solutions.

The Model Groundwater Bill, 2016

The Union Ministry of Water Resources has put up a Model Bill for Conservation, Protection and Regulation of Groundwater. It seeks to make groundwater a common pool resource, reduce its pollution and degradation, and protect ecosystems and their biological diversity. It has been circulated to states by the Central Government, and has been adopted by 15 states so far.

Other Significant Initiatives

Atal Mission for Rejuvenation and Urban Transformation (AMRUT), Smart city, Swachh Bharat Swachh Vidyalaya (SBSV), National Mission for Clean Ganga (NMCG) and National River Conservation Plan and the most recent Swachh Swasth Sarvatra (SSS) programme are some other major initiatives aimed at water and sanitation development in India. AMRUT reportedly denies free water provisioning for the poor and pushes for water privatization through Public Private Partnerships.

CHALLENGES

ISSUES AND IMPACTS

Gender based Violence

In May 2014, the media reported an incident of rape and hanging of two teenage girls from a disadvantaged caste in Uttar Pradesh, India, while on their way to defecate in the open. Women living in urban slums of Delhi reported specific incidents of girls under 10 being raped while on their way to use a public toilet in a 2011 study. Women without toilets at home are clearly vulnerable to sexual violence when travelling to and from public facilities or open fields, risks can be reduced at the very least when women and girls have access to toilets closer to their home.

Caste-based Discrimination

In India, more than 20% Dalits still do not have access to safe drinking water and 48.4% of Dalit villages are denied access to water source.

The practice of manual scavenging is also continuing despite having a law on Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013. The government needs to effectively work towards prohibition of manual scavenging.

Access to safe water

India has the world's largest number of people without access to safe water. About 7.6 crore people, which is 5% of India's total population, are deprived of safe water and the country registers around 1.4 lakh child deaths annually due to diarrhoea, a mainly water-borne disease.

Access to Sanitation

India is the worst country in the world for numbers of urban dwellers without safe, private toilets (157 million) and for open defecation (41 million). The problem is so big that the daily waste produced on the streets of India's towns and cities is enough to fill eight Olympic-sized swimming pools, or 16 jumbo jets, with poo, every day.

Water Privatization

There is hardly any regulation for water extracting industries especially with the packaged drinking water and beverages markets. The community ownership of water resource is also getting threatened.

RECOMMENDATIONS

Implement Indian Court Judgements recognising water and sanitation as legally enforceable human rights. This would also be in line with the fact that India is a signatory to the commitments made in the UNGA 2010 resolution and SACOSAN V declaration to recognize water and sanitation as human rights.

The new 2030 SDG Agenda has a dedicated Goal (SDG) 6 on water and sanitation with clear linkages with other Goals. Adequate and appropriate provisioning of resources need to be made to ensure realisation of Goal 6 of the SDGs.

India must prepare a comprehensive policy on water clearly articulating the life cycle use of water as a public good rather than an economic good. The draft Water Policy 2012 pending in the Ministry of Water Resources must be revised and a new policy must be put in place immediately with due public discussion.

Adequate budget provisioning along with clear channel of its utilization needs to be ensured to completely eradicate manual scavenging and ensure that disposal and management of human waste is carried out in strict conformity to the principles of protecting human rights, health and environmental sustainability.

Everyone living in urban areas, including including informal settlements, to be provided with a toilet to ensure the protection of public health.

Emphasize the need for non-coercive and non-punitive behaviour change and communication approaches for promotion of toilet construction and use. Hygiene as a key goal also needs to be established. Concerns around quality of construction and prevention of contamination need to be recognised and addressed.

Effective coordination is necessary from all actors in the sanitation chain including governments, city planners, NGOs, the private sector, informal service providers and citizens.

Sanitation workers to be given the respect they deserve with stable employment, safety and decent pay. Without them healthy communities and cities are impossible.

There is a vital need for an integrated approach towards urban planning that prioritises provision of basic services like clean water, safe sanitation and sustainable faecal sludge management by ensuring people's participation.

REFERENCES

Indian Court Judgements on the Right to Water: -
<http://www.righttowater.info/rights-in-practice/legal-approach-case-studies/court-cases/#india>
 Seth Bharath Lal, National Water Policy, 2012 silent on priorities, Down to Earth, New Delhi <http://www.downtoearth.org.in/news/national-water-policy-2012-silent-on-priorities-35952>
 Water: at What Cost? 2016, WaterAid
<http://wateraidindia.in/publication/water-at-what-cost/>
 Overflowing Cities, 2016 WaterAid
http://wateraidindia.in/wp-content/uploads/2016/11/Press-Release_English.pdf

Johns Hannah, Stigmatization of Dalits in Access to Water and Sanitation in India, National Campaign for Dalit Human Rights.
 Eliminating discrimination and inequalities in access to water and sanitation, UN Water, http://www.unwater.org/fileadmin/user_upload/unwater_new/docs/UN-Water_Policy_Brief_Anti-Discrimination.pdf

Fact sheet prepared by 'WaterAid India' for Working Group on Human Rights in India and the UN (WGHR).